

Message Text

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ACTION NEA-16

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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC IMMEDIATE 2176

LIMITED OFFICIAL USE NEW DELHI 8183

E.O. 11652: N/A

TAGS: CASC, PFOR, IN

SUBJECT: HARCOS/FLETCHER: CONSULAR ACCESS

FOLNG SENT NEW DELHI IMMEDIATE FROM CALCUTTA JUNE 20TH.

QUOTE CALCUTTA 1235

E.O. 11652: N/A

TAGS : CASC PFOR IN

SUBJECT : HARCOX/FLETCHER: CONSULAR ACCESS

REF : A. STATE 127285

? NEW DELHI 8034

C. STATE 129289

D. STATE 131842

SUMMARY: AFTER RECEIVING OUR PETITION AND HEARING FEEBLE PUBLIC PROSECUTION OBJECTIONS, CHIEF METROPOLITAN MAGISTRATE RULED THAT WE SHOULD HAVE CONSULAR ACCESS TO HARCOS AND FLETCHER EVERY TWO WEEKS BEGINNING FRIDAY, JUNE 21. END SUMMARY.

1. AT 1:30 ON JUNE 19 (AFTER ONE AND A HALF HOUR WAIT)
THE CONSULAR OFFICER WAS CALLED INTO THE CHIEF METROPOLITAN MAGISTRATE'S CHAMBER ALONG WITH THE PROSECUTOR, A POLICE INSPECTOR, DEFENSE LAWYER DUDHWEWALA, AND ONE OTHER UNKNOWN PERSON. COPIES OF THE CONSULAR OFFICER'S PETITION WERE DISTRIBUTED.

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2. JUDGE SHARMA THEN ASKED THAT THE PROSECUTOR PRESENT THE CONSULAR OFFICER WITH A COPY OF THE PROSECUTION'S OBJECTION. NONE WAS AVAILABLE. THE CONSULAR OFFICER WAS PROMISED THAT A COPY OF THE OBJECTION WOULD BE SENT TO HER. BASICALLY IT CONSISTED OF WHAT APPEARED TO THE CONSULAR OFFICER TO BE FEEBLE PROTESTS. IT MENTIONED THE SUDDENNESS OF THE U.S. GOVERNMENT'S DESIRE FOR ACCESS TO THE PRISONERS, THAT THE MATTER OF THE HEALTH AND WELFARE OF THE PRISONERS WAS A MATTER FOR THE JAILER AND THE JAIL DOCTOR, AND WORDS TO THE EFFECT THAT THE CONSULAR OFFICER SHOULD NOT BE ALLOWED TO CONSPIRE WITH THE PRISONERS. HOWEVER, THE PETITION DID SAY THAT, IF THE MAGISTRATE SHOULD GRANT THE CONSULAR OFFICER ACCESS TO THE PRISONERS, ANY MEETING MUST BE IN THE PRESENCE OF A POLICE OFFICER AND IT MUST CONCERN NOTHING MORE THAN MATTERS REGARDING THE PRISONERS' HEALTH AND COMFORT.

3. AFTER THE PROSECUTOR HAD STATED HIS CASE, THE CONSULAR OFFICER WAS ALLOWED TO POINT OUT THAT THERE WAS NOTHING IN THE LEAST SUDDEN ABOUT OUR DESIRING ACCESS TO THE PRISONERS, THAT INDEED A CONSULAR OFFICER HAD BEEN SEEING MR HARCOS AND MR FLETCHER ON A REGULAR BASIS UNTIL MR MCWILLIAMS WAS REFUSED ACCESS ON MAY 13, 1974. IT WAS POINTED OUT THAT, ALTHOUGH INDIA HAD NOT SIGNED THE VIENNA CONVENTION, THE GOVERNMENT OF INDIA HAD AGREED TO ABIDE BY IT AND THAT THE UNITED STATES DID NOT DENY INDIAN CONSULAR OFFICIALS ACCESS TO ANY INDIAN CITIZENS WHO MIGHT BE IMPRISONED IN THE UNITED STATES. THE CONSULAR OFFICER ALSO STATED THAT IT IS THE RESPONSIBILITY OF THE U.S. GOVERNMENT TO SEEK ACCESS TO ITS CITIZENS WHO HAVE BEEN IMPRISONED AND TO SEE TO THEIR HEALTH AND WELFARE AND THAT, IF DENIED ACCESS, SHE WOULD HAVE TO RELY ON SECOND-HAND INFORMATION AS TO THE HEALTH AND WELFARE OF MR HARCOS AND MR FLETCHER.

4. CHIEF MAGISTRATE SHARMA THEN MADE A RULING THAT THE CONSULAR OFFICER WOULD BE ALLOWED TO SEE THE PRISONERS ONCE EVERY TWO WEEKS BUT THAT THE MEETING MUST TAKE PLACE IN THE PRESENCE OF A POLICE OFFICER AND THAT ONLY REPEAT ONLY MATTERS RELATING TO THE "HEALTH AND COMFORT" OF THE PRISONERS COULD BE DISCUSSED.

5. AFTER THE RULING WAS MADE, IT WAS ARRANGED THAT THE FIRST MEETING OF THE CONSULAR OFFICER WITH HARCOS AND FLETCHER WOULD TAKE PLACE THIS FRIDAY, JUNE 21, AT 3:30 PM IN THE PRESIDENCY JAIL.
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ARRANGEMENTS FOR THE NEXT MEETING TWO WEEKS HENCE WILL BE CONFIRMED AT THIS FRIDAY'S MEETING. UNLESS OTHERWISE ARRANGED, THE VISITS WILL TAKE PLACE EVERY OTHER FRIDAY AT THE SAME TIME. LEeway WAS LEFT, HOWEVER, TO REQUEST ALTERATIONS REGARDING DAY AND TIME.

6. COMMENT: THE REQUIREMENT THAT A POLICE OFFICER BE PRESENT AT THESE MEETINGS IS NOTHING NEW. THE OTHER QUALIFICATION

SHOULD PRMIT THE PRISONERSTO RAISE ANY QESTIONS CONCERNING UNFAIR
TREATMENT. LEGAL ASPECTS OF THE CASE WILL OF COURSE BE DISCUSSED
WITH DEFENSE LAWYERS AS BEFORE.
PICKERING UNQUOTE. SCHNEIDER

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